

REMARKS

This response is in reply to the Office Action mailed September 24, 2007. Claims 1-13 are pending in the application with claims 1-13 are rejected.

Claims 1-13 are rejected under 35 USC 102(b) as being anticipated by US Publication No. 2005/016555, hereinafter referred to as Stein. The Office Action and the reference have been carefully read and studied. In response, claim 1 has been amended.

Claim 1 requires severing the polyp from the surface by discharging electrical energy from said conductive hook into the poly. Stein does not teach discharging electrical energy from the hook into the polyp. Rather, Stein teaches passing electric current through a filament formed of a shape memory material. The electric current heats the filament causing it to change to a "memorized" shape. Further, the electric current is passed through the filament after the filament is engaged with the polyp to generate heat to excise the polyp. See ¶¶ 25-27 of Stein. That is, Stein discharges heat into the polyp - not electrical energy. There is a difference. Heat energy is an energy transfer that takes place as a consequence of temperature differences only. On the other hand, electrical energy is something that is produced by an electromotive force. See Physics for Scientists and Engineers, 3d Ed., pp. 527 and 756, and attached as Exhibit 1. Electrical energy does not mean heat. That is, a proper construction of the term "electrical energy" and the phrase "discharging electrical energy into the polyp" does not encompass discharging heat into the polyp. They are two different forms of energy. In short, electrical energy does not encompass heat energy. If the Patent Office disagrees with this construction, the Examiner is respectfully urged to set forth the Patent Office's construction and the basis for the construction.

New dependent claim 34 has been added. Claim 34 calls for maintaining the conductive hook in a generally constant hook shape while manipulating the hook, engaging the polyp with a hook, and severing the polyp from the surface. Stein does not teach maintaining a generally constant hook shape while manipulating the hook. Rather, Stein teaches only a method of


positioning a generally straight filament adjacent a polyp, and changing the shape of the filament to at least partially wrap around the polyp. Thus, Stein teaches changing the shape of the filament during the procedure. Stein's method does not maintain the filament in a generally constant shape. Moreover, where Stein's method to be modified to hold a generally constant shape, its entire purpose would be defeated. The method taught by Stein clearly requires a generally straight confirmation at one point and then a curved confirmation at another point in the performance of the method or procedure.

Accordingly, claim 1 is not anticipated. In addition, claim 34 is not anticipated nor are any of the claims that depend therefrom.

For the foregoing reasons, it is respectfully urged that the present application is in condition for allowance and allowance is respectfully requested.

Respectfully submitted,

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